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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,580	02/06/2002	Joseph J. DiBiase	29020/107A	8275

7590

05/20/2005

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EXAMINER

KATCHEVES, BASIL S

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/068,580

Applicant(s)

DIBIASE ET AL.

Examiner

Basil Katcheves

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48-78 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48-78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Applicant has amended claims 48, 56, 61 and 78. pending claims 48-78 are examined below. Rejections of claims 48, 56, 67 and 78 are necessitated by applicants IDS of 2/28/05.

Claim Rejections - 35 USC § 102

Claims 48, 49, 54-58, 63-70 and 75-78 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,805,523 to Burke et al. as in the previous office action.

Regarding claim 48, 56 and 78, Burke discloses a bumper for stopping a vehicle (fig. 4). Burke also discloses the bumper as having a first contact surface (fig. 5: 46) and a second contact surface (fig. 5: 53) spaced further outward than the first contact surface. In addition, applicant should note that the vehicle is not a claimed part of the invention. Limitations regarding the orientation of the vehicle toward the bumper are inherently met by the prior art as capable of engaging a vehicle when undesirably positioned.

Regarding claims 49 and 58, Burke discloses the first contact surface as spaced higher than the second.

Regarding claim 54, Burke discloses an attachable bumper.

Regarding claims 55 and 66, Burke discloses the first contact surface (fig. 5: 46) and the second contact surface (fig. 6: 53) as being generally perpendicular to the direction of vehicle movement.

Regarding claim 57, Burke discloses the second contact surface (fig. 6: 53) as being spaced laterally greater than the first contact surface (fig. 5: 46).

Regarding claim 63, Burke discloses the lateral spacing between the first and second contact surfaces as forming a path (fig. 6: above 50a).

Regarding claim 64, Burke discloses the second contact surface as having a visual reference, since it can be seen by the eye.

Regarding claim 65, Burke discloses the second contact surface as capable of stopping a car at a distance from its back side (30).

Regarding claim 67, Burke discloses a bumper with a first contact surface (fig. 5: 46) and a guide member (fig. 5: 40) spaced below the first contact surface.

Regarding claim 68, Burke discloses the guide member (fig. 5: 40) as protruding beyond the first contact surface (fig. 5: 46).

Regarding claim 69, Burke discloses the first contact surface as being higher than the guide member (fig. 5).

Regarding claim 70, Burke discloses the guide member (fig. 5: 40) as having a second contact surface (fig. 5: 53) which extends farther than the first contact surface (fig. 5: 46).

Regarding claim 75, Burke discloses the guide member as providing a visual reference, since it can be seen by the eye.

Regarding claim 76, Burke discloses the guide members second contact surface as capable of stopping a vehicle from further movement.

Regarding claim 77, Burke discloses the two contact surfaces (fig. 6: 53 & fig. 5: 46) as being generally perpendicular to the direction of vehicle movement.

Claims 48, 56, 67 and 78 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,658,633 to Di Biase.

Regarding claims 48, 56, 67 and 78, Di Biase discloses a bumper having a first contact surface (fig. 5: 21) and a second contact (guide) surface (fig. 5: 30'), the second surface protruding farther than the first.

Claim Rejections - 35 USC § 103

Claims 50-53 and 59-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,805,523 to Burke et al. in view of U.S. Patent No. 5,586,355 to Metz et al. as in the previous office action.

Regarding claims 50-53 and 59-62, Burke does not disclose a position responsive sensor on the loading dock bumper. Metz discloses a sensor for mounting on the underside of a loading dock leveler (abstract) which may be mechanical, proximity, or photoelectrically activated (abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Burke by using the sensor disclosed by Metz on the bumper to warn of a collision.

Claims 71-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,805,523 to Burke et al. in view of U.S. Patent No. 5,911,189 to Ryan

Regarding claim 71, Burke does not disclose the guide member as having an active mechanism that guides. Ryan discloses a bumper system with an active member (fig. 1: 28) that is capable of guiding. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Burke by adding the active guide, disclosed by Ryan, in order to prevent scuffing and denting of the bumper and vehicle.

Regarding claim 72, Burke discloses the guide as having a tapered surface (fig. 6: 40).

Regarding claims 73 and 74, Ryan discloses the guide as having an anti friction member which is comprised of a roller (fig. 4: 26).

Response to Arguments

Applicant's arguments filed 2/28/05 have been fully considered but they are not persuasive. Applicant argues that Burke does not disclose a bumper having first and second contact surfaces which indicates that a vehicle is in an undesirable position. However, the applicant should note that Burke has at least two contact surfaces which are capable of contacting a vehicle. The vehicle which contacts these surface may be in an undesirable position. Clearly, if a vehicle contacts the first surface of Burke, it is most likely not in a desirable position, as the main contact surface is second surface. The basic claim structure, as claimed, is met by the structure of Burke. Since these

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structures are similar, as claimed, Burke is inherently capable of performing in a similar manner. Applicant argues that Burke is not intended to be used as a vehicle bumper. It is to be used to prevent vehicle doors from bumping walls. Applicant must note that the function of the instant application may be duplicated by Burke, since the structural claim limitations are met by Burke. Also, the vehicle doors are part of the vehicle, they are in motion, and they are moving in collision with the bumper. Applicant argues the use of the first surface. Applicant states that it is not, in fact a surface for use as a bumper. Applicant should note that the first surface is in fact, a surface meeting the limitations of the instant applications limitations regarding a first surface. The bumper of Burke has a plurality of surfaces, the two shown in the rejection meet the claim limitations of the instant application. Applicant also argues that the components of Burke may not be used as a guide for vehicles. However, the bumper of Burke may act as a guide, since when a vehicle comes into contact with the bumper, the vehicle component will bump against the invention of Burke and notify the user that the vehicle component is too close to the backing surface. Applicant argues the combination of Burke with Metz. However, Metz is a signal for warning of impending contact, and Burke is a bumper for the preservation of vehicle components. Both have the intent to preserve the vehicle from damage, therefore their combination would be an obvious modification. Regarding the combination of Burke with Robinson, this argument is moot under new grounds of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to bumpers in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.


Basil Katcheves

BK

5/16/05

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